

Agenda Item # 9
September 10, 2004

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Recommendations of the California Performance Review
(For Commission Consideration and Possible Action)

OPTIONS TO CONSIDER:

- The Commission could take no position on the proposals in the CPR report.
Some members, or groups they represent might make independent comments on the recommendations of the CPR report.
- The Commission could take a position of support of the proposals in the CPR report.
The CPR recommends the Commission be eliminated, and the Commission's responsibilities, budge, and staff be transferred to a new Department of Natural Resources.
- The Commission could submit other recommendations to the CPR, the Governor, and the Legislature, such as those described below, or others.

BACKGROUND:

Governor Scharzenegger established the California Performance Review (CPR) and directed the team of state employees and consultants to devise a scheme to streamline State government and make it more responsive to the citizens of the State. The CPR worked for several months to prepare a detailed evaluation of State government; the CPR report was released after the FY 04-05 budget was signed.

RECOMMENDATIONS OF THE REPORT:

The CPR report includes wide-ranging recommendations, from operational changes to organizational changes. The report is available for review on the internet at www.cpr.ca.gov. The report indicates that millions of dollars would be saved by implementing the recommendations of the CPR.

The CPR report recommends that the Delta Protection Commission be eliminated and that the responsibilities of the Commission be transferred to the proposed Department of Natural Resources. The proposed Department of Natural Resources would be run by an appointee of the Governor, and would serve at the pleasure of the Governor.

Draft legislation on the CPR website states that all duties of the Commission would be transferred to the Department of Natural Resources, the adopted regulations would remain in place, all contracts would remain in place, all funds would be transferred to the Department of Natural Resources, and all civil service employees would become employees of the Department of Natural Resources. The Executive Director position would be eliminated.

PROCESS:

The Governor has appointed a Commission to consider the CPR report and the make recommendations to the Governor. The Governor may make changes to the CPR report and will then forward a recommendation to the Little Hoover Commission for additional consideration. Upon completion of that review, the Governor will forward recommendations to the Legislature for consideration.

RESULTS OF THE CPR REPORT RECOMMENDATIONS:

Fiscal Savings: The Commission operates on a limited budget of approximately \$300,000 per year that covers three full time staff (one "exempt" and two civil service) and office costs. The Commission itself receives NO per diem; the Commission pays no rent for its meeting facility. By eliminating the Commission and its meetings the State would save approximately one-third of its budget year in staff time preparing meeting materials, meeting minutes, and attending Commission and Committee meetings; reproduction costs; and mailing costs. The remainder of staff time is spent on reviewing and commenting on proposed projects and their consistency with the Commission's plan and possible impacts on the Primary Zone, regional planning programs, and planning projects to review and evaluate possible amendments to the Commission's adopted regional plan. If the Commission's office in Walnut Grove were to be closed, and additional approximately \$24,000 per year in rent and utilities would be saved; there is a cost to moving the staff to the proposed Natural Resources Agency (rent, utilities, etc.) that would offset that savings.

Option: By recommending appointment of a Standing Committee that would meet only on an as needed basis or quarterly, rather than the minimum of six times per year currently mandated, smaller, but some, savings would be realized due to smaller postage and reproduction costs.

Transfer of Staff to Department of Natural Resources: The Commission currently has authorization for three full time staff. One position, the Executive Director, is appointed by the Commission and is "exempt". The other two, full time positions are civil service positions. The CPR report recommends that the Executive Director position be eliminated and that the civil service positions be transferred to the Department of Natural Resources.

Option: *All three approved positions could be transferred to the Department of Natural Resources, with the exempt Executive Director position changed to a Program Manager, so there continue to be three "PY"s assigned to the Delta program. The Program Manager position could be a civil service category.*

Planning Responsibilities: The Commission was charged with preparing and adopting a Land Use and Resource Management Plan for the Primary Zone of the Delta, and updating that Plan. This responsibility would transfer to the Department of Natural Resources. As an example, agencies that are headed by a Governor's appointee rather than a Commission do prepare and adopt plans (Department of Fish and Game, Department of Water Resources, etc). Usually the Director appoints a committee or committees that may include: technical experts; local, state and federal agency representatives; landowners; business owners; and general members of the public. Such a committee would review and provide input to preparation of plan or plan update. Final acceptance of a plan, or plan amendment would be by the Director, in concurrence with the Governor's Office.

Option: *The Commission could recommend that any Committee appointed by the Department of Natural Resources to update the Land Use and Resource Management Plan for the Primary Zone of the Delta reflect the current membership of the Commission and meet the requirement for three public meetings throughout the Delta region.*

Option: *The Commission could recommend that the Commission's planning responsibilities be transferred to another State Agency overseen by a Commission, such as the San Francisco Bay Conservation and Development Commission, to preserve the "Commission" type of regional oversight. The Bay Commission could appoint a Delta Committee, that would resemble the current make-up of the Delta Protection Commission, to oversee updates of the Land Use Plan.*

Appeal Responsibilities: The Commission was charged hearing appeals of local government actions filed by an aggrieved party. The Commission has adopted regulations that govern this appeal process. This responsibility would transfer to the natural resources agency. The Department of Natural Resources could hear an appeal, or appoint a person or committee to hear an appeal.

Option: *The Commission could recommend that the Department of Natural Resources appoint a Committee to hear any appeals of local government actions, and that the membership of the appeal committee reflect the current membership of the Commission (taking into account any changes resulting from implementation of the CPR recommendations) and any appeal hearings be held in the Delta.*

Option: *The Commission could recommend that the Commission's appeal responsibilities be transferred to another State Agency overseen by a Commission, such as the San Francisco Bay Conservation and Development Commission, to preserve the "Commission" type of regional oversight. The Bay Commission could appoint a Delta Committee, that would resemble the current make-up of the Delta Protection Commission, to hear appeals .*

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Recommendations of the California Performance Review:

"Delta Protection Commission. Eliminate the Commission. A 2004–2005 LAO budget analysis documented that fully one half of the Commission's non-administrative time was spent monitoring CALFED and concluded that the Commission had completed its core functions and that much of its remaining work was duplicative of the Bay-Delta Authority. The Commission also is authorized to hear land use appeals but in recent years there have been none. The remaining responsibilities should be performed within the new Department of Natural Resources with cooperation from the new Department of Environmental Protection and Department of Infrastructure."

Proposed Draft Legislation Regarding Delta Protection Commission prepared by the California Performance Review:

~~29721. "Commission" means the Delta Protection commission created by Section 29735. Commencing July 1, 2005, any reference to "commission" or "Delta Protection Commission" in this Division of the Public Resources Code shall refer to the Department of Natural Resources.~~

~~29735. Commencing July 1, 2005, any reference to the Delta Protection Commission shall refer to the Department of Natural Resources. The Department of Natural Resources hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Delta Protection Commission which effective July 1, 2005, shall no longer exist. There is hereby created the Delta Protection Commission consisting of 19 members as follows:~~

~~(a) One member of the board of supervisors of each of the five counties within the delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of the county.~~

~~(b) Three elected city council members shall be selected and appointed by city selection committees, from regional and area councils of government, one in each of the following areas:~~

~~(1) One from the north delta, consisting of the Counties of Yolo and Sacramento.~~

~~(2) One from the south delta, consisting of the County of San Joaquin.~~

~~(3) One from the west delta, consisting of the Counties of Contra Costa and Solano.~~

~~(c) (1) One member each from the board of directors of five different reclamation districts which are located within the primary zone who are residents of the delta, and who are elected by the trustees of reclamation districts within the following areas:~~

~~(A) Two members from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter~~

~~283 of the Statutes of 1973), provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.~~

~~(B) One member from the west delta consisting of the area of Contra Costa County within the delta.~~

~~(C) One member from the area of the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).~~

~~(D) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).~~

~~(2) Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. For purposes of this section, each reclamation district shall have one vote. The north delta area shall conduct separate votes to select each of its two members.~~

~~(d) The Director of Parks and Recreation or the director's sole designee.~~

~~(e) The Director of Fish and Game or the director's sole designee.~~

~~(f) The Director of Food and Agriculture or the director's sole designee.~~

~~(g) The executive officer of the State Lands Commission or the executive officer's sole designee.~~

~~(h) The Director of Boating and Waterways or the director's sole designee.~~

~~(i) The Director of Water Resources or the director's sole designee.~~

~~29736. The term of office of the members of the commission shall be for four years, and a member may serve for one or more consecutive terms.~~

~~29737. Members shall serve without compensation, but the expenses of each member incurred in connection with official duties shall be paid by the commission.~~

~~29738. The position of a member of the commission shall be considered vacated upon the loss of any qualification required for appointment, and in that event the appointing authority shall appoint a successor within 30 days of the occurrence of the vacancy. Upon the occurrence of the first vacancy among any of the members listed in subdivision (d), (e), (f), (g), (h), or (i) of Section 29735, the Director of Conservation or the director's designee shall serve as the successor member.~~

~~29739. The commission shall elect from its own members a chairperson and vice chairperson whose terms of office shall be two years, and who may be reelected. If a vacancy occurs in either office, the commission shall fill the vacancy for the unexpired term.~~

~~29740. One nonvoting member who shall be a Member of the Senate, appointed by the Senate Committee on Rules, and one nonvoting member who shall be a Member of the Assembly, appointed by the Speaker of the Assembly, both of whom represent areas within the primary zone, shall meet with, and participate in the activities of, the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For the purpose of this division, those Members of the Legislature shall constitute a joint interim investigating committee on the subject of this division, and as such shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and Assembly.~~

~~29741. The time and place of the first meeting of the commission shall be prescribed by the Governor, but in no event shall it be scheduled for a date later than January 31, 1993. All meetings after the first meeting shall be held in a city within the delta.~~

~~29750. The commission shall meet at least bimonthly. All meetings shall be open to the public as required by law. Notice of the time and place of all regular and special meetings shall be published at least once in a newspaper of general circulation whose area of circulation is throughout the delta. Notice of any meeting shall be published at least seven days prior to the meeting date.~~

~~29751. A majority of the voting members of the commission shall constitute a quorum for the transaction of the business of the commission. A majority vote of the voting members present shall be required to take action with respect to any matter unless otherwise specified in this division. The vote of each member shall be individually recorded.~~

~~29752. The commission shall adopt its own rules, regulations, and procedures necessary for its organization and operation.~~

~~29753. The commission shall appoint agricultural, environmental, and recreational advisory committees for the purpose of providing the commission with timely comments, advice, and information. The commission may appoint committees from its membership or may appoint additional advisory committees from members of other interested public agencies and private groups. The commission shall seek advice and recommendations from advisory committees appointed by local~~

~~government which are involved in subject matters affecting the delta.~~

~~29754. The commission shall establish and maintain an office within the delta, and for this purpose the commission may rent or own property and equipment. Any rule, regulation, procedure, plan, or other record of the commission which is of such a nature as to constitute a public record under state law shall be available for inspection and copying during regular office hours.~~

~~29755. The commission shall appoint, and fix the salary of, an executive director who shall have charge of administering the affairs of the commission, including entering into contracts, subject to the directions and policies of the commission. The executive director shall, subject to the approval of the commission, appoint those employees that are necessary to carry out the functions of the commission.~~

~~29756. The commission~~ Department of Natural Resources may promote, facilitate, and administer the acquisition of voluntary private and public wildlife and agricultural conservation easements in the delta.

~~29756.5. The commission~~ Department of Natural Resources may act as the facilitating agency for the implementation of any joint habitat restoration or enhancement programs located within the primary zone of the delta.

~~29757. The commission~~ Department of Natural Resources may apply for and accept federal grants or other federal funds and receive gifts, donations, rents, royalties, state funds derived from bond sales, the proceeds of taxes or funds from any other state revenue sources, or any other financial support from public or private sources.

~~29758. All members of the commission are subject to Title 9 (commencing with Section 85100) of the Government Code.~~